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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/796,372   | 03/09/2004  | James K. Kebinger    | POU920030176US1     | 2280             |
| 23334  | 7590        | 02/11/2009           | EXAMINER            |                  |
| FLEIT GIBBONS GUTMAN BONGINI & BIANCO P.L.<br>ONE BOCA COMMERCE CENTER<br>551 NORTHWEST 77TH STREET, SUITE 111<br>BOCA RATON, FL 33487 |             |                      | PICH, PONNOREAY     |                  |
|  |             |                      | ART UNIT            | PAPER NUMBER     |
|  |             |                      | 2435                |                  |
|  |             |                      | NOTIFICATION DATE   | DELIVERY MODE    |
|  |             |                      | 02/11/2009          | ELECTRONIC       |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ptoboca@fggbb.com

|                              |                        |                     |  |
|------------------------------|------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|                              | 10/796,372             | KEBINGER ET AL.     |  |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |  |
|                              | PONNOREAY PICH         | 2435                |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 21 January 2009.

2a) This action is **FINAL**.                            2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 7, 14 and 20 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 7, 14 and 20 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

The previous indication of allowable subject matter is withdrawn in light of new art found (“SSH FAQ – Manpage of ssh”, found while working on another application), in light of recent rulings by the Federal Circuit Courts, and in light of further consideration of the claims in light of the specification. Any inconvenience is regretted. Note that as requested in the remarks filed by applicant, the examiner attempted to contact applicant’s representative before sending out this office action. However, no one returned the messages left by the examiner even after waiting several days.

Claims 7, 14, and 20 are pending.

### ***Claim Rejections – 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 7, 14, and 20 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

1. “the computer system” in line 7 of claim 7, line 10 of claim 14, and line 7 of claim 20 lacks antecedent basis.
2. Claims 7, 14, and 20 all recite “...identity switching is accomplished in only one user step”. Upon further consideration of the specification, the metes and bounds of these claims cannot be determined since the specification provides no guidance as to what is meant by “one user step”. The closest disclosure the

examiner can find is in paragraph 24 of the specification which discusses authorizing access being done in “one step”. From the example given in the cited paragraph, it appears that identity switching can be considered to be done in “one step” if the alternate username and/or password is provided as part of the user name string. It is unclear if identity switching can be accomplished in only one user step in other manners or not. Further, note that claims 7, 14, and 20 refers to “providing the first username and alternate class are entered into a single character string so that identity switching is accomplished in one user step”. Since from the claim language neither the alternate username nor the password is provided as part of a user name string (as discussed in the specification), what criteria should be used to judge as to whether identity switching is accomplished in only one user step.

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 7 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Regarding claim 7, it is noted that as per method claims, the Federal Circuit Courts recently ruled that for method claims to be statutory, the method must either (1) be tied to a machine or (2) transform an article, see *In re Bilski*, 545 F3d 943, 88 USPQ2d 1385 (Fed. Cir. 2008).

It is submitted that claim 7 as currently recited appears to fail both the tests set forth by *In re Bilski* since the steps of the method could be accomplished by two people interacting with each other—this neither requires a machine or transforms an article. The recited receiving step could be accomplished by a first person receiving login information from a second person written on a piece of paper, wherein the login information is written on a single line on the paper. The first person could then perform the authenticating step by visually verifying the login information written on the paper, and if the information is correct, the providing step could be accomplished by the first person letting the second person into a room where a computer system is located, the computer system providing an experience of an alternate class. Note that merely providing access to the computer system does not necessarily tie a computer to the method since the providing step could be accomplished by the first person not taking any actions to prevent the second person from accessing the computer system.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 7, 14 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by “SSH FAQ – Manpage of ssh”, herein referred to as sshfaq.

### **Claims 7, 14, and 20:**

As per claim 7, sshfaq discloses a method for switching identity of a user (p1, “ssh [-l *login\_name*] *hostname*” and DESCRIPTION section, first paragraph) that has a first username associated with a first class of users (p1, DESCRIPTION section, paragraph 3. *Note that the ssh command allows a user from a local machine to log onto a remote machine and gain access to the remote machine as a user having an account on the remote machine. Further, note that sshfaq recognizes that it is possible for the local and remote machine to have users having the same user name: “...the user names are the same on both seides, the user is immediately permitted to log in”. This means that a first username is associated with a first class of users (i.e. the group of users having an account on the local machine) and the first username could also be associated with an alternate class (i.e. the group of users having an account on the local machine). Note that the claim is being read in light of the specification and since paragraph 3 disclose that a class of users refers to a group of users, users having an account on a local machine is considered to be a different class of users than the users having an account on the remote machine.*), the method comprising the steps of:

1. Receiving login information from the user, the login information including the first username (i.e. “*login\_name*” following ssh –l), an alternate class (i.e. “*hostname*”), and a password (p1-2. *The password could either be provided via a file or entered by a user on a prompt*), the first username and the alternate class being received as part of a user identification input of the login information entered by the user (p1, SYNOPSIS section).

2. Authenticating the user based on the first username and the password (p1, DESCRIPTION SECTION, paragraph 2 and p2, last three paragraphs).
3. Providing access to the computer system as the alternate class (p2, next to last paragraph ).
4. Wherein the alternate class is different than the first class (p1-2). *The group/class of users having an account on the local machine is inherently different from the group/class of users having an account on the local machine.*
5. In the receiving step, the first username and the alternate class are entered into a single data field as a single character string so that identity switching is accomplished in only one user step (p1, “ssh [-l *login\_name*] *hostname*” and DESCRIPTION section, first paragraph). *Note that the ssh command, the login\_name, and the hostname are all entered into a single character string into the local terminal.*

Claims 14 and 20 recite substantially similar subject matter and are rejected for similar reasons as claim 1. The difference with claim 14 is that it refers to a computer program producing comprising a storage medium readable by a processing circuit and storing instructions for execution by the processing circuit to perform the method of claim 7. Since ssh is done in a computer network, such a computer program product is inherent to sshfaq. The difference with claim 20 is that it refers to a system having an interface login and processor to perform the method of claim 1. These items are also

inherent to sshfaq since ssh is done on a computer system and using a terminal/shell (i.e. interface login).

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PONNOREAY PICH whose telephone number is (571)272-7962. The examiner can normally be reached on 9:00am-4:30pm Mon-Thurs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Vu can be reached on 571-272-3859. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ponnoreay Pich/  
Examiner, Art Unit 2435